IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2873 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS
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1.   Whether Reporters of Local Papers may be allowed
        to see the judgements?

2.   To be referred to the Reporter or not?

3.   Whether Their Lordships wish to see the fair copy
        of the judgement?

4.   Whether this case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?

5.   Whether it is to be circulated to the Civil Judge?

VIJAY SUNDARLAL PATEL
Versus
     COMMISSIONER OF POLICE

Appearance:
     MR VIJAY H PATEL for Petitioner
     Mr.R.M.Chauhan, Government Pleader for Respondent
     No. 1, 2, 3

     CORAM : MR.JUSTICE K.R.VYAS
     Date of decision: 10/08/98

ORAL JUDGEMENT

1. The petitioner has filed this petition under
Article 226 of the Constitution of India challenging the
legality and validity of the order, dated 23.1.1998
passed by the Police Commissioner, Ahmedabad city under
section 3(1) of the Gujarat Prevention of Anti-Social
Activities Act, 1985 (hereinafter referred to as "the

Act").

2. In the grounds of detention supplied to the detenu , the detaining authority has placed reliance on 20 criminal cases registered against the petitioner for alleged offence under section 379 IPC for committing theft of spare wheel of scooters for which investigation is in progress. Over and above these criminal cases, further reliance is also placed on the statements of four witnesses for the alleged incidents, dated 25.12.1997 and 7.12.1997. As regards incident, dated 25.12.1997 the concerned witness was beaten on the ground that he refused to oblige the demand of Rs.300/- made by the petitioner and not only that Rs.450/were snatched by the petitioner from his pocket and on another incident dated 7.12.1997 when the concerned witness refused to keep three spare wheels of scooter at his place suspecting them to be stolen articles he was beaten. On both the occasions that the witnesses were dragged on the public road and were beaten and many people gathered to watch the incident. However, nobody made any attempt to save the witnesses because of fear of the petitioner. Not only that the crowd started running helter-skelter when the petitioner ran towards them with open knife and atmosphere of fear was created and the even tempo of public life was disturbed. Considering this material the detaining authority has recorded the finding that the petitioner is a "dangerous person" within the meaning of section 2(c) of the PASA Act and with a view to preventing her from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner which has been challenged by this petition.

3. This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegation made against the petitioner are true, the same at best can be treated as breach of law and order and not public order. I have gone through the statements of witnesses which are stereotype. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it can not be contended that the petitioner, is involved in committing breach of public order. Even if the allegation made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a

dangerous person is also vitiated. The order of detention is therefore liable to be quashed and set aside.

4. In the result, the petition is allowed. The order of detention, dated 23.1.1998 is quashed and set aside. The detenu-Vijay Sundarlal Patel is ordered to be released forthwith if not required in connection with anyother offence. Rule is made absolute to the aforesaid extent with no order as to costs.

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